



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

February 18, 1994
AO-94-05

Edward P. Kirby
Attorney at Law
379 Harvard Street
Whitman, MA 02382

RE: Payment to spouse for work performed for candidate

Dear Mr. Kirby:

This letter is in response to your request for an advisory opinion. I apologize for the delay in my response but I have, in this opinion, taken into account your recent appointment to the Industrial Accident Board.

You have asked if your campaign committee may reimburse your wife for examining, sorting, classifying and indexing 30 storage boxes of records relating to your several campaigns for election and re-election. You have stated that the material would enhance your opportunities to run for elective office in the future. You have further stated that your wife "is the single person most familiar with all phases" of your political career. You would like to pay her \$9.00 per hour to do the work. You expect the tasks will take four to six weeks at thirty-five hours weekly.

M.G.L. c. 55 governs expenditures by political committees. Section 6 provides, in pertinent part, as follows:

[A] political committee, duly organized, may . . . expend money or other things of value for the enhancement of the political future of the candidate . . . so long as such expenditure is not primarily for the candidate's or any other person's personal use . . .

Expenditures designed to enhance a candidate's political future must also bear a reasonable connection to the candidate's nomination or election to public office. See M.G.L. c. 55, s. 1.

In particular, I note that 970 CMR 2.06 (3), which incorporates by reference 970 CMR 2.05 (2)(i), allows a political committee to compensate an individual provided such compensation is done in a "reasonable manner" and "solely for work actually done for that political committee." The regulations do not prohibit compensation merely because the

work is done by, or reimbursement is made to, a candidate's spouse.¹ See AO-91-01, in which this office opined that a committee could reimburse a candidate's spouse for gifts purchased by the spouse, on behalf of the committee, for campaign workers.

Although the regulations and this office's opinions do not prohibit a political committee's compensation merely because the recipient is a candidate's spouse, the minimal facts presented in your letter are insufficient for me to conclude that the proposed activity enhances your political future. Based upon the facts presented, it appears there has never been a need for the proposed classification of the boxes of records in connection with any of your previous campaigns. In addition, you have not provided any specific reason why such a need has not previously existed. Therefore it is difficult to perceive why the need should arise now.

Moreover, subsequent to your request for this advisory opinion, the Governor appointed you to be an administrative law judge with the Industrial Accident Board and the Governor's Council has approved that nomination. In light of your recent appointment, I assume that you do not intend to run for elective office or take actions whose primary purpose is to enhance your political future in a manner which bears a reasonable connection with any nomination or election in the immediate future. Therefore, absent additional facts not apparent in your letter, the proposed expenditure would not comply with the statutory and regulatory requirements.

Finally, I should note that if you have, in fact, decided to retire from elected public life, your political committee should dissolve and dispose of its residual funds pursuant to M.G.L. c. 55, s. 18, a copy of which is enclosed for your information. Section 18 requires that a political committee must dissolve by donating funds in its account to (1) the Local Aid Fund; (2) an entity which is subject to M.G.L. c. 6 or M.G.L. c. 12, s. 8; (3) a scholarship fund; or (4) the general fund of any city or town in the commonwealth.

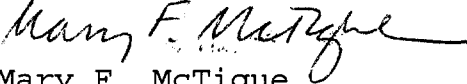
This opinion is based solely on the representations made in your letter and the information set forth herein and has been rendered solely in the context of M.G.L. c. 55.

1. Routinely, this office urges political committees to maintain accurate accounts and records of the work performed and the hours spent in performing the work by campaign workers. Where payments are made to a candidate's spouse, this office closely scrutinizes the reasonableness of the payments to insure compliance with the prohibition against personal use of campaign funds.

Edward P. Kirby
February 18, 1994
Page 3

Please do not hesitate to contact this office should you have additional questions or information relative to this or any other campaign finance matter.

Very truly yours,


Mary F. McTigue
Director

MFM/cp
Enclosure